

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>WILLIAM THOMAS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 213,684
<b>TRAND, INC.</b>	)	
Respondent	)	
AND	)	
	)	
<b>LEGION INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on October 4, 1996.

**ISSUES**

The issue to be considered on appeal is whether claimant has sustained his burden of proving that he sustained personal injury by accident arising out of and in the course of his employment.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board finds that the claimant has failed to prove his burden on the above-identified issue. The Order by the Administrative Law Judge should be affirmed.

The claimant alleges that he injured his neck when he hit his head while working underneath his truck on April 26, 1996. Claimant did not report any injury on that date and when he returned to work on the following Monday he reported, instead, that he had a fight with his brother-in-law. Claimant told Sandra Arnett, the accountant and corporate

secretary, that he had injured his collarbone in a fight with his brother during the previous weekend. He told her his injuries had nothing to do with work. When claimant sought medical treatment initially he referred only to a previous motorcycle accident. The physician indicated the injury might have occurred from hitting his head, and claimant then suggested the possibility of a work-related injury. Claimant returned to work after his visit to the physician and told one of the secretaries for the respondent that he had fractured a vertebra in a fight on the previous weekend. Based upon this evidence and review of the entire record the Appeals Board concludes, as did the Administrative Law Judge, that claimant has failed to meet his burden. Benefits should be denied.

**WHEREFORE**, the Appeals Board finds that the Order by Administrative Law Judge Bruce E. Moore dated October 4, 1996, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December 1996.

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BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS  
Kirby A. Vernon, Wichita, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director